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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	
Provision of Directory Listing Information under the Communications Act of 1934, As Amended	CC Docket No. 99-273
Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities	CC Docket 98-67

COMMENTS OF BELL ATLANTIC

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Summary

Telegate asks the Commission to order a hugely expensive undertaking to solve a problem that doesn't exist. It wants to reengineer the way local directory assistance ("DA") is provided in this country by requiring that customers be allowed to "presubscribe" to different DA providers and to reach the chosen provider by dialing 411. Even if the Commission had authority to order such a change — which it does not — there is nothing to suggest that consumers want this option and would be willing to pay the significant bill for it, a bill that would be tens of millions of dollars for Bell Atlantic[1] alone. Nor is there any competitive justification for this costly undertaking. The Commission should, therefore, reject Telegate's request.[2]

[1] Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; Bell Atlantic-West Virginia, Inc.; New York Telephone Company and New England Telephone and Telegraph Company.

[2] This submission does not repeat the showing previously made in this proceeding that non-carriers may not demand DA information under section 251(b)(3) and non-publishers may not demand subscriber list information under section 222. As neither a carrier nor a directory publisher, Telegate cannot require exchange carriers to give it this information.

1. The Commission May Not Require 411 Presubscription.

411 DA services have always been considered intrastate and regulated by the States. It has been the States that have set the prices for 411 DA services and established the terms and conditions under which they have been offered. The Commission, therefore, has no jurisdiction over the way the service is provided[3] and may not require 411 presubscription any more than it could have required intrastate intraLATA presubscription before the 1996 Act.

Nothing has happened to diminish the States' jurisdiction. The only thing in the Telecommunications Act that the Commission might look to for authority in this area is section 251(b)(3), which requires local exchange carriers to provide dialing parity (as defined in section 3(15)) for access to "competing providers of telephone exchange and telephone toll service." Telegate, of course, is not a provider of these services. Moreover, the Act required the Commission to adopt regulations to fully implement this provision almost four years ago, and the fact that the Commission did not include 411 presubscription in those rules indicates that it did not believe that the statute required it.

Nor is this a matter of "numbering administration" over which the Commission has jurisdiction under section 251(e)(1). That section gives the Commission authority to assign 411 nationally for DA services (or to unassign it), but not prescribe how local 411 calls are to be routed and handled.

2. Even if It Could, It's a Bad Idea.

The costs of 411 presubscription would be significant, far more than Telegate suggests. The market for directory information is competitive, and consumers already have a variety of

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[3] Section 221(b) of the Act provides that the Commission has no jurisdiction over telephone exchange services to the extent they are subject to regulation by the states.

options available to them. Therefore, there is no competitive need to order this expensive undertaking.

A. The Costs Would Be Significant, Far More Than Telegate Claims.

At least as to Bell Atlantic, Telegate is correct that the basic AIN infrastructure is in place to allow for 411 presubscription. But that infrastructure was also largely in place in 1996 when the Commission ordered number portability, and that fact did not prevent number portability from being a multi-billion dollar undertaking nationwide.

As it did for number portability, Bell Atlantic would need to establish new AIN databases (SCPs) to contain the 411 presubscription information and to build facilities to connect those databases to its SS7 service transfer points (STPs). In the alternative, Bell Atlantic might be able to augment the capacity of existing databases and the existing circuits to the STPs. It might also be necessary to increase the capacity of the STPs and of the links that connect them to Bell Atlantic end offices. The extra processing required to perform database lookups on the tens of millions of calls to 411 could necessitate switch processor upgrades. All these engineering decisions would have to be made based on studies of the traffic and signaling loads at the time the new arrangements were to be deployed, and it is impossible for Bell Atlantic to forecast now what they will be at some unspecified time in the future.[4]

Bell Atlantic's number portability costs are illustrative. In 1997 and 1998, we spent more than $50 million just for five SCP database pairs[5] and the links to connect them to the SS7 network.[6] Even if Bell Atlantic could serve its entire territory with a single database pair, this

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4 There are many factors beyond Bell Atlantic's control that will determine whether new facilities and augmentations are required, most notably the extent to which thousands-block number pooling has been implemented.

5 SCPs are deployed in pairs for redundancy and reliability.

6 See Bell Atlantic Telephone Companies, Transmittal No. 1111, Description & Justification at 8, dated March 2, 1999.

would be a $10 million expenditure for this one element alone (not including any price increases in the interim).

In addition, Bell Atlantic would need to modify numerous operations support systems ("OSSs") to enable 411 presubscription. These would start with the various systems that are used to accept customer orders and that service representatives use when dealing with customers, flow through several intermediate systems and end with the systems that would have to be modified to make this new form of presubscription happen. OSSs used by competitive exchange carriers to order services and unbundled elements would also have to be modified.

It cost Bell Atlantic more than $80 million to modify its OSSs for number portability, and estimates are that thousands-block number pooling will cost approximately $70 million. While 411 presubscription will not require changes in as many OSSs, more than a dozen will require modification. While Bell Atlantic has not developed the specifications for these modifications and, therefore, cannot provide a precise cost estimate, we would expect this work to run at least $20 to 25 million. Therefore, the costs identified by Telegate are just the tip of the cost iceberg for the undertaking it proposes.

As it did with number portability, the Commission would have to decide how the carriers that incur these significant costs are to recover them. Interexchange carriers would argue, with some force, that exchange carriers should not recover them through access charges. And, of course, Telegate is not volunteering to pay, and these costs could not realistically be recovered from those consumers who took advantage of the new arrangement and actually presubscribed to another provider. While consumers generally recognized the benefits they could receive from number portability, they might be hard pressed to see why they should pay for a choice they did not ask for and will never use, but, one way or another, these are the people who would end up paying.

Finally, there are also other "costs" that are impossible to quantify. These are the costs imposed on Bell Atlantic, on consumers, and on the regulators, of the customer confusion and new opportunities for slamming that 411 presubscription would inevitably generate. Especially where there is no evidence whatsoever that consumers want another presubscribable service option, the Commission should not adopt a plan that involves all these costs.

The Notice asks whether "a directory assistance database administrator would be necessary to maintain the correct correlation between customers and their presubscribed directory assistance providers, or to ensure that the telephone numbers in the database are kept up-to-date."[7] As a technical matter, an administrator should not be necessary for either purpose.

There is no need for an administrator to keep track of who is presubscribed to what DA provider. Telegate's proposal is like long distance presubscription, which requires no central administrator. It is very different from toll-free service administration, number portability and number pooling, which do. This is because it would be necessary to change only one carrier's network and systems in order to effect a customer's 411 DA presubscription choice — the network and systems of the customer's local exchange carrier. Customers or their selected DA providers would simply inform the LEC of the new provider, and the LEC would update its database. In contrast, toll-free service, number portability and number pooling require central administration because numerous carriers all need to get the same information at the same time in order for the service to work (information about how to route a toll-free call, that calls to an individual customer need to be delivered to a different switch and about the location of block of telephone numbers in the network).

There is also no need for an administrator "to ensure that the telephone numbers in the database are kept up-to-date," although it is easy to see why Telegate would want one (if it did

[7] Notice at 3.

not have to pay for it). Today, every exchange carrier keeps its customers' telephone numbers up to date. This works just fine. What Telegate seems to want is some central "administrator" to keep all the numbers from all the different LECs up to date in *Telegate's* database, freeing it from the bother of doing so. Bell Atlantic has no problem, of course, if Telegate wants to hire someone to do this work for it. Bell Atlantic would certainly have a problem if it were asked to pay for it.

B. Exchange Carriers Do Not Have a Monopoly Over DA Services.

Telegate would have the Commission believe that the directory information marketplace is a monopoly controlled by the local telephone companies. Nothing could be further from the truth, as the Commission itself has recognized.

Consumers have a variety of ways to get telephone number information. Local exchange carrier DA is, of course, one of them. Others include printed directories, published by telephone companies and others. And consumers are increasingly using on-line resources to obtain this information.

Even if one focuses only on traditional voice DA services, local exchange carriers are far from the only providers. Long distance companies have always provided this service to their presubscribed customers through NPA-555-1212 dialing. And AT&T, Sprint and WorldCom offer nationwide DA listings through a single number.[8] Information providers, such as "555-NEED" in the Baltimore-Washington area, also offer voice DA services. There is no marketplace failure here that requires the costly fix Telegate proposes.

[8] The Commission recently noted, "AT&T and MCI do not appear to have been deterred from providing nonlocal directory assistance service using an alternative access code given U S WEST's use of the 411 dialing code." *Petition of U S WEST Communications, Inc. for a Declaratory Ruling Regarding the Provision of National Directory Assistance*, 14 FCC Rcd 16252 ¶ 43 (1999).

At least twice in the past few months, the Commission has recognized the existence of DA competition. Last November, in the UNE remand order, the Commission wrote:

> "Competition in the provision of operator services and directory assistance has existed since divestiture."[9]
>
> "Even requesting carriers advocating the unbundling of operator and directory assistance services acknowledge that there exists a substantial number of alternative providers of operator and directory assistance services."[10]
>
> "[W]e find that the existence of multiple alternative providers of OS/DA service in the marketplace, coupled with evidence of competitors' decreasing reliance on incumbent OS/DA services, demonstrates that requesting carriers' ability to provide the services it seeks to offer is not materially diminished without access to the incumbent's OS/DA service on an unbundled basis."[11]

This record, which was sufficient to permit the Commission to eliminate a rule it had believed necessary to encourage competition, must require the Commission to reject the expensive reengineering of the network Telegate seeks.[12]

C. No Consumer Demand Has Been Shown for This Arrangement.

Telegate claims that consumers have been harmed by the way DA service is provided today.[13] Under regulation by the States, however, 411 DA services are universally available and

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[9] *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 15 FCC Rcd 3696 ¶ 447 (1999).

[10] *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 15 FCC Rcd 3696 ¶ 448 (1999).

[11] *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 15 FCC Rcd 3696 ¶ 449 (1999).

[12] Finally, Telegate's own submission demonstrates that 411 presubscription is not necessary for competition in the DA service business. In the two years since starting in the DA business in Germany, Telegate has been able to "expand rapidly" and has had "dramatic" growth, and it now handles 78 million calls per year. Siwek Affidavit at 3, attached to Telegate March 10 Ex Parte. Notably, this remarkable success was achieved *without* presubscription, the drastic remedy that Telegate says is necessary for competition in the United States. If it was not necessary in Germany, there is no reason to believe that it is needed here.

[13] Telegate March 10 Ex Parte at 4.

typically provided at low prices. Many States give consumers multiple free 411 DA calls.[14] It is hard to see how consumers are suffering under this regime.

411 DA service is not only low priced, it is high quality. Local telephone companies are typically required by state regulators to provides DA service all day, every day, and they are often subject to strict service quality standards (*e.g.*, speed of answer).

In many areas, then, it is hard to see how Telegate could, as a practical matter, be able to provide service to consumers — how could it compete with a service that is both free and high quality, even with 411 presubscription.

Given this fact, it would appear that Telegate's real business interest is in the relatively few large, business users of DA services. These customers can use Telegate's service today, of course, just not by dialing 411. If this is the marketplace that's really involved here, then the public benefit that is achieved by making it easier for these customers to use another DA service provider is far outweighed by the substantial costs involved.

3. In No Event Should the Commission Require Balloting (or Worse, Allocation).

In implementing intraLATA presubscription in 1996, the Commission did not require balloting of customers, let alone balloting and allocation.[15] If it did not do so there, it certainly should not do so here.

Telegate tries to hide the magnitude of the cost by saying that it is only $1.13 per line.[16] This, of course, would translate to more than $200 million for the nation's more than 180 million access lines.

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[14] For example, in Bell Atlantic territory, residence customers in Massachusetts get 10 free DA calls per month, Maryland 6, D.C., Rhode Island and New Hampshire 5, New Jersey 4, Virginia, Maine and Vermont 3, and Pennsylvania, West Virginia and Connecticut 2.

[15] *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 19392 ¶ 80 (1996).

[16] Telegate March 10 Ex Parte at 17.

But even this estimated price-tag is too low. Analyses done after the passage of the Telecommunications Act for proceedings in states that considered balloting for intraLATA presubscription show substantially higher costs. Developing the customer letter and ballot, printing and mailing would cost about 50 cents per customer,[17] or almost $14 million for Bell Atlantic. Postage for returned ballots, assuming 20 percent are returned, is another $1.8 million. Processing the customer presubscription selection would cost about $3 per account, or more than $16 million. If the Commission were to require a second mailing and ballot before allocation (as it did for interLATA presubscription), this would cost $23 million, again assuming a 20 percent return rate. The cost of allocating the more than 17 million non-selecting customers (more than $17 million) would bring the total to more than $70 million for Bell Atlantic alone.

4. The Commission Should Not Abolish 411 for DA.

The Notice asks whether the Commission should "require the provision of directory assistance services by all competing entities through '1010' access codes and earmark the '411' code for purposes other than directory assistance."[18] The answer is a resounding "No." Not too long ago, the Commission found,

> "411 has long been assigned for access to local directory assistance services. Because directory assistance queries are often made while travelling away from one's regular residence or place of business, a short, easy-to-recall, uniform nationwide code would be very useful for obtaining telephone numbers. For these reasons, we find continued use of 411 to call local directory assistance services justified by public convenience and necessity."[19]

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17 . This assumes there would be a mailing for each customer account. If the Commission were to require a separate mailing for each *line*, these numbers would be substantially higher.

18 Notice at 3.

19 *Use of N11 Codes and Other Abbreviated Dialing Arrangements*, 12 FCC Rcd 5572 ¶ 47 (1997).

Nothing has happened to change the validity of this conclusion.[20]

5. Applicability to 711 Presubscription

The Notice asks about implementing presubscription for other N11 codes, particularly 711 for telephone relay services.[21]

The technical and cost issues are similar to those relating to 411 presubscription. The same sorts of network and OSS changes would be required. The only real difference is that the numbers of calls to 711 is only a small fraction of the number to 411, 711 presubscription might be accomplished through existing databases and facilities, while 411 presubscription might require more significant additions and upgrades to the network. The OSS modification work, however, would be essentially the same for both capabilities.

It is harder for Bell Atlantic to assess the benefits that might weigh against these costs. Far fewer people use TRS than call directory assistance, but for many of those who do, it is far more important than simply one way of getting a telephone number. Bell Atlantic has no first-hand knowledge of how well TRS is being provided nationwide or whether competition would improve its quality and lower its cost to the public. We are aware, however, that some TRS users have expressed dissatisfaction with their states' TRS centers and want to use a center in another state. This choice could be accommodated by 711 presubscription.

711 presubscription raises one unique issue, however. Callers to TRS centers do not pay extra for the service. Rather, TRS is generally provided under special State-mandated arrangements and paid for by all the telephone ratepayers in each state. Maryland consumers, for

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[20] The Commission recently rejected claims that a LEC's "use of the 411 or 1-411 code for the provision of nonlocal telephone numbers constitutes unjust or unreasonable discrimination." *Petition of U S WEST Communications, Inc. for a Declaratory Ruling Regarding the Provision of National Directory Assistance*, 14 FCC Rcd 16252 ¶ 43 (1999).

[21] Notice at 3.

example, pay 20 cents per month to fund the Maryland TRS center. If Maryland TRS users were unhappy with the service of the Maryland center and able to presubscribe to another center, say the one in Virginia, they would be adding extra loads to the Virginia system, which neither they nor other Marylanders would pay for. Under the existing system, all the costs added by the out-of-state users of the Virginia center would be paid for by Virginians. If the Commission were to require 711 presubscription to override the State-authorized provider of the service, then it will also have to devise a new way to fund the provision of the service.

Conclusion

The Commission should reject Telegate's proposal in every respect.

Respectfully submitted,

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